

AMENDMENTS TO THE DRAWINGS

Figure 3B is amended to correct a reference number lead line.

Attachment: Replacement Sheet(s)
Annotated Sheet(s) Showing Changes
New Sheet(s)

REMARKS/ARGUMENTS

In response to the Office Action mailed February 22, 2006, Applicants amend their application and request reconsideration. In this Amendment claims 4-7 are cancelled and claims 12-14 are added so that claims 1-3 and 8-14 are now pending.

In this Amendment a correction of Figure 3B is proposed so that the scattering plate 9 is properly identified in that figure. Approval is respectfully requested.

Applicants direct the Examiner's attention to co-pending patent application number 10/480,923, filed December 16, 2003, being examined in Art Unit 2629 by Examiner Stephen Sherman. That published patent application (US 2004/0145539) was recently examined and U.S. Patent 6,563,626 was cited. An Information Disclosure Statement citing that patent is being filed simultaneously with this Amendment.

Claims 1, 2, and 4-11 were rejected as indefinite. The basis of the first rejection was language appearing near the end of claim 1 which does not appear in the form of claim 1 presented here. The comments concerning claims 4 and 6 are not understood and the corresponding rejection is moot because those claims have been cancelled. Claims 4 and 6 did not specify, as stated in the Office Action, an optically conjugate relationship between the scattering plate and the light source and did not need to specify any relationship between those elements and the imaging plate, apparently the assumption of the rejection.

Claims 1-11 were rejected as non-statutory, allegedly on the basis that they claimed a part of the human body. This rejection is respectfully traversed.

The Examiner did not cite any authority, not even the MPEP, as a basis for the rejection. A search of the MPEP fails to disclose that claiming the human body is, as an absolute principle, prohibited by 35 USC 101. Moreover, the reference in the bodies of claims 1 and 3 to an eye of a viewer did not claim the eye of the viewer but merely referred to the eye of the viewer as an environmental element. Likewise, reference to the retina of the viewer in the preambles of those claims was only an environmental reference. The comments with regard to claims 4-7 are moot in view of the cancellation of those claims. For the foregoing reasons, the rejection is respectfully traversed. In

order to advance the prosecution, the cited language within the body of claim 1 does not appear in amended claim 1 and the revision of claim 3 eliminates the possibility of that language appearing in that claim.

Claim 2 was stated to be allowable.

In this Amendment claim 3 is rewritten as a dependent claim because it is not apparent why that claim must be independent. Claim 1 describes an apparatus and includes a mechanism for adjusting the position of the scattering plate between the light source and the imaging plate. The adjustment can be continuous, as in claim 2, or it can be between fixed positions, as in claim 3, and in the embodiment illustrated in Figure 4 of the patent application.

In this Amendment, new claims 12-14 are added. Claim 12 is supported by the embodiment of Figure 5, described at pages 15-17 of the patent application. The apparatus of Figure 5 expressly includes the shutters that are employed to adjust the area of the scattering plate that is optically accessible. New claims 13 and 14 are method claims replacing original claims 4 and 6 and claims 5 and 7, respectively. These claims are clearly supported by those original claims as well as by the description pertaining to them. In view of the addition of these method claims, the title of the patent application is changed.

Of the originally examined claims still pending, claims 1, 3 and 9-11 were rejected as anticipated by Omae et al. (U.S. Patent 5,760,849, hereinafter Omae). Claim 8 was rejected as unpatentable over Omae considered by itself. Both rejections are respectfully traversed.

Omae describes a viewfinder including some of the same elements as the invention. In the principal rejection, with regard to claim 1, the Examiner directed attention to Figures 2 and 3 of Omae and might have also directed attention to Figures 7-9, 11, 15, and 19. None of these figures discloses any apparatus that provides any means of adjusting the position of the scattering plate between the light source and the imaging plate. The only arrangements described by Omae provide for fixed location mounting of all three of those elements. Therefore, there can be no anticipation of claim 1 nor of any of its dependent claims 3 and 9-11. The rejection of claim 8 as obvious over Omae is

founded upon the assertion that Omae anticipates claim 1, an assertion that cannot reasonably be maintained.

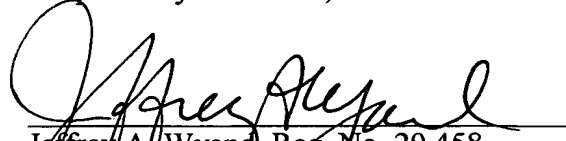
The comment at page 4 of the Office Action that Figure 2 of Omae shows that the scattering plate can be positioned at any one of predetermined plural positions between the light source and the imaging plate, meeting the limitations of examined claim 3, is incorrect. Every element shown in Figure 2 of Omae has a single mounting position determined by a groove or flange. There is no unused groove or flange that could even suggest mounting any of the elements shown in Omae's Figure 2 at any different position, selected from available fixed positions. The rejection of claim 3 is not supportable, independent of the patentability of claim 1.

The elements described in new dependent claim 12 are not described anywhere in Omae so that that claim is patentable as depending from claims 1 and 11, as well as based upon its respective limitations, independent of the patentability of claim 1.

With respect to new claims 13 and 14, the assertion at page 3 of the Office Action that Omae describes a scattering plate having an optically conjugate relationship with the pupil of an eye of a viewer finds no support in any express or implied disclosure of Omae. The Examiner did not cite any passage of Omae that can be relied upon as allegedly including that description. The fact that a light source appears to be planar, as described at column 10, of Omae, contrary to the Office Action, has no relationship to either of the new method claims 13 and 14.

Reconsideration and allowance of all claims now pending are earnestly solicited.

Respectfully submitted,


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